

REMARKS

Status of the Application

Claims 1-32 are pending in the present Application.

Claims 1-3 and 5-32 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-10, 11, 13, 14, 16-19 of U.S. Patent No. 6,728,606.

Claim 4 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,728,606 in view of Balch et al., U.S. Patent No. 6,758,087.

Claims 1-2, 5-14, 25-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Obara et al. (U.S. Patent No. 5,661,380).

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Obara et al. in view of Balch et al. (U.S. Patent No. 6,758,087).

Claims 15-20 and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Obara et al. in view of Kumar et al. (U.S. Patent No. 5,992,950).

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Obara et al. in view of Kumar et al. and further in view of Discenzo (U.S. Patent No. 6,326,758).

Reconsideration and allowance of the claims are respectfully requested in view of the following remarks.

Terminal Disclaimer

A terminal disclaimer is filed herewith in compliance with 37 CFR 1.321(c). As noted by the Examiner, the terminal disclaimer may be used to overcome the rejections on the ground of nonstatutory obviousness-type double patenting. Accordingly, it is considered that the filing of the Terminal Disclaimer herein overcomes the rejections to claims 1-32 on the ground of nonstatutory obviousness-type double patenting.

Claim Rejections Under 35 U.S.C. § 102(b)

Claims 1-2, 5-14, 25-32 stand rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Obara et al. (U.S. Patent No. 5,661,380). Applicants respectfully traverse these rejections.

To anticipate a claim under 35 U.S.C. § 102, a single source must contain all of the elements of the claim. *Lewmar Marine Inc. v. Bariant, Inc.*, 827 F.2d 744, 747, 3 U.S.P.Q.2d 1766, 1768 (Fed. Cir. 1987), *cert. denied*, 484 U.S. 1007 (1988). The Applicants respectfully submit that Obara et al. do not contain all of the elements of the claims.

Claim 1 recites in part, “A method for detecting a rotational velocity of a traction motor in a vehicle comprising: obtaining a traction motor signal having at least one phase, wherein said traction motor signal is responsive to an operating condition of said traction motor **in an electrically unexcited state; ...”** (emphasis added)

Obara et al. do not teach “A method for detecting a rotational velocity of a traction motor **... in an electrically unexcited state**” as is claimed in claim 1. Rather, Obara et al. teach “a protection apparatus in a control system for an electric vehicle which is capable of performing back-up driving by using a backup control method, without using output from sensors.” (Abstract) Specifically, “the inverter is brought to the V/f control state to control the speed of the alternating motor, the vehicle **can continue to run** in a minimum necessary condition without using the output of the sensor.” (column 3, lines 7-10) Inherent in the vehicle continuing to run is that the alternating motor be in an electrically **excited** state. Nowhere do Obara et al. teach running the electric vehicle with the alternating motor “in an electrically unexcited state” as is recited in claim 1. Furthermore, the “backup control method” of Obara et al. is used “without using output from sensors.” That is, the “backup control method” does not use “output from sensors” and, therefore, cannot be used for “detecting a rotational velocity of a traction motor ... in an electrically unexcited state” as is claimed in claim 1.

Independent claims 29-32, which use similar claim language in relevant part for this rejection, are likewise distinguishable from Obara et al.

Accordingly, it is respectfully submitted that claims 1, 29-32, and the claims dependent

thereon, are novel and patentable over the prior art of record. For at least these reasons, Applicants request reconsideration and withdrawal of the rejections of the claims.

The Applicants have refrained from entering comments regarding certain assertions of the Examiner, and holds these comments in abeyance for purposes of expediency. The Applicants reserve the right to address other assertions of the Examiner, should the arguments and amendments submitted herein be unconvincing.

CONCLUSION

It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Accordingly, reconsideration and withdrawal of the and rejections and allowance of the case are respectfully requested.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130.

Respectfully submitted,

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